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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

E. JEAN CARROLL,

Plaintiff,

v.

DONALD J. TRUMP, in his personal capacity,

Defendant.

Civil Action No.: 1:20-cv-7311-LAK-JLC

**DEFENDANT’S LOCAL RULE 56.1 STATEMENT OF MATERIAL FACTS AS TO
WHICH THERE IS NO GENUINE ISSUE TO BE TRIED**

Pursuant to Local Civil Rule 56.1., defendant, Donald J. Trump (“Defendant”), submits the following statement of material facts as to which there is no genuine issue to be tried.

STATEMENT OF FACTS

1. According to the Complaint, Plaintiff alleges that she encountered Defendant at the Bergdorf Goodman Store located at 754 5th Ave, New York, NY 10019. Plaintiff is unable to specify a date or time period when the events giving rise to this Complaint allegedly occurred, other than “between the fall of 1995 and the spring of 1996.” *Id.* Plaintiff was approximately 52 years old at the time that the purported incident occurred. *See* Declaration of Alina Habba, (“Habba Dec.”), Exhibit A at ¶ 22.

2. Plaintiff, an advice columnist, alleges that Defendant recognized her on sight as the “advice lady” and asked her to help him select a present for a woman who was not present with him at the store. *Id.* at ¶¶ 24-26.

3. Plaintiff alleges that the two eventually proceeded to take the escalator to either the sixth or seventh floor, where the lingerie department was located. *Id.* at ¶¶ 29-30

4. Plaintiff alleges that the floor they visited was entirely abandoned, and there were no sales attendants on the floor. Once there, Defendant allegedly insisted that Plaintiff try on the bodysuit. Defendant then purportedly led Plaintiff by the arm to the dressing rooms. *Id.* at ¶¶ 31-35.

5. At this point, Plaintiff alleges that Defendant purportedly closed the door to of the dressing room, pushed her against a wall, and began kissing her without her consent. She then claims that she pushed Defendant away and laughed at him, and that he then pressed her against the wall once more, pulled down her tights, and forcibly raped her until she managed to push him off and flee the store. *Id.* at ¶¶ 36-42.

6. Plaintiff testifies that she only contemporaneously disclosed the details of this alleged attack to two of her friends: Lisa Birnbach and Carol Martin. After sharing her account of the purported attack, Plaintiff did not speak of it, or even so much as dwell on the incident, until Defendant was elected President in 2016. *Id.* at ¶¶ 43-52.

7. Thereafter, Plaintiff decided to reveal these allegations publicly against Appellant for the first time with the release of the book entitled: ‘What Do You Need Men For?’ in or around May of 2019. *Id.* at ¶ 74.

8. Plaintiff made a conscious decision to issue an excerpt of her book to *New York Magazine* as opposed to *Elle*, the magazine that formerly published her *Ask E. Jean* advice column.

Publicly, she has proffered the following justification for this decision: “Under Nina, Elle has been less into politics or news . . . Nina’s Elle is a fashion magazine. So I went with New York Magazine, which knows how to break news.” *See id.*, Exhibit D at 3.

9. Additionally, Plaintiff testified that she chose *New York Magazine* over *Elle* because she didn’t “believe that [*Elle*] would have run anything close to what New York ran.” *See Id.* Exhibit B at 190:15-25.

10. Following these public allegations set forth in Appellee’s book, Plaintiff’s defamation claim arises out of three statements in June 2019 made directly in response to Plaintiff’s allegations (the “Statements”). *See id.*, Ex. A at ¶ 81.

11. On June 21, 2019, a statement circulated by the Deputy White House Press Secretary to the press denied the accusation and Appellant stated:

Regarding the ‘story’ by E. Jean Carroll, claiming she once encountered me at Bergdorf Goodman 23 years ago, I’ve never met this person in my life. She is trying to sell a new book – that should indicate her motivation. It should be sold in the fiction section.

Shame on those people who make up false stories of assault to try to get publicly for themselves, or sell a book, or carry out a political agenda – like Julie Swetnick who falsely accused Justice Brett Kavanaugh. It’s just as bad for people to believe it, particularly when there is zero evidence. Worse still for a dying publication to try to prop itself up by peddling fake news – it’s an epidemic.

Ms. Carroll & New York Magazine. No pictures? No surveillance? No video? No reports? No sales attendants around?? I would like to thank Bergdorf Goodman for confirming that they have no video footage of any such incident, because it never happened.

False accusations diminish the severity of real assault. All should condemn false accusations and any actual assault in the strongest possible terms.

If anyone has information that the Democratic Party is working with Ms. Carroll or New York Magazine, please notify us as soon as possible. The world should know what’s really going on. It is a disgrace and people should pay dearly for such false accusations.

Id. at ¶ 82.

12. On June 22, 2019, Defendant made the following statement to the White House press:

“[Reporter]: [Y]ou had said earlier that you never met E. Jean Carroll. There was a photograph of you and her in the late 1980’s—

[Trump]: I have no idea who this woman is. This is a woman who has also accused other men of things, as you know. It is a totally false accusation. I think she was married—as I read; I have no idea who she is—but she was married to a, actually, nice guy, Johnson—a newscaster.

[Reporter]: You were in a photograph with her.

[Trump]: Standing with coat on in a line—give me a break—with my back to the camera. I have no idea who she is. What she did is—it’s terrible, what’s going on. So it’s a total false accusation and I don’t know anything about her. And she’s made this charge against others.

And, you know, people have to be careful because they’re playing with very dangerous territory. And when they do that—and it’s happening more and more. When you look at what happened to Justice Kavanaugh and you look at what’s happening to others, you can’t do that for the sake of publicity.

New York Magazine is a failing magazine. It’s ready to go out of business, from what I hear. They’ll do anything they can. But this was about many men, and I was one of the many men that she wrote about. It’s a totally false accusation. I have absolutely no idea who she is. There’s some picture where we’re shaking hands. It looks like at some kind of event. I have my coat on. I have my wife standing next to me. And I didn’t know her husband, but he was a newscaster. But I have no idea who she is—none whatsoever.

It’s a false accusation and it’s a disgrace that a magazine like New York—which is one of the reasons it’s failing. People don’t read it anymore, so they’re trying to get readership by using me. It’s not good.

You know, there were cases that the mainstream media didn’t pick up. And I don’t know if you’ve seen them. And they were put on Fox. But there were numerous cases where women were paid money to say bad things about me. You can’t do that. You can’t do that. And those women did wrong things—that women were actually paid money to say bad things about me. But here’s a case, it’s an absolute disgrace that she’s allowed to do that.

Id. at ¶ 91.

13. On June 24, 2019, Defendant issued a third statement in response to Plaintiff’s allegations against him: “I’ll say with great respect: Number one, she’s not my type. Number two, It never happened. It never happened, OK?” *Id.* at ¶ 97.

14. Following Defendant's repudiation of Plaintiff's claims, Plaintiff filed the instant complaint. *See generally, id.*

15. The Complaint alleges, among other things, that the above referenced statements issued by the President were defamatory per se and caused her to "suffer reputational, emotional, and professional harm. *Id.*

16. Plaintiff alleges that the Statements caused her professional harm by causing "injury to her reputation, honor, and dignity." *Id.* at ¶ 132.

17. In a meager attempt to quantify this damage, Plaintiff alleges that she "received roughly 50% fewer letters than she received during the same period in 2018." *Id.* at ¶ 134.

18. Plaintiff when deposed, however, candidly admitted that she never kept track of the letters she received from Elle Readers until 2019, after the lawsuit was filed. *See id.*, Exhibit B at 230:20-24; 231:2-7.

19. Plaintiff also produced the expert report of Professor Ashlee Humphries, PhD to assess the damages Plaintiff purportedly suffered as a result of the Statements. *See generally, id.*, Exhibit C (the "Report").

20. Upon examination, the Report almost exclusively focuses on the purported harm Plaintiff has allegedly sustained to her "reputation and person brand." *Id.* at 2.

21. Dr. Humphreys concludes that the "utterance and circulation of Mr. Trump's Statements caused short - and long-term harm to Ms. Carroll's person brand, shifting perceptions associated with her person brand with the general public and specific perceptions amongst a group of people receptive to the claims" and that Plaintiff's "reputational value has been diminished due to the Statements." *Id.* at 5.

Dated: December 22, 2022

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alina Habba', with a long horizontal flourish extending to the right.

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